

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

-----x  
JULIUS W. HOBSON, et al.,  
Plaintiffs,  
vs. Civil Action No. 82-66  
CARL F. HANSEN, et al.,  
Defendants.  
-----x

TRANSCRIPT OF PROCEEDINGS

Courtroom No. 4  
United States Courthouse  
Washington, D. C.  
Monday, September 19, 1977

The above-entitled matter came on for hearing  
before THE HONORABLE J. SKELLY WRIGHT, United States District  
Judge, at 2:00 p.m.

APPEARANCES:

S. WILLIAM LIVINGSTON, Esq.; PETER F. ROUSSELOT, Esq.;  
and RALPH TEMPLE, Esq., appearing on behalf of the  
Plaintiffs.

DAVID A. SPLITT, Esq.; R. NEIL DICKMAN, Esq.; and  
GEORGE E. MARGOLIES, Esq., appearing on behalf of the  
Defendants.

-0o0-

RONALD KAVULICK  
Official Court Reporter





P R O C E E D I N G S

THE DEPUTY CLERK: Civil Action No. 82-66, the case of Julius W. Hobson, et al. versus Carl F. Hansen, et al.

Mr. Livingston, Mr. Rousselot and Mr. Temple for the plaintiffs; Mr. Splitt, Mr. Dickman and Mr. Margolis for the defendants.

THE COURT: The Court would like each party to state the reasons why you have made the request, or, in the case of the plaintiffs, why you joined in the request in this case, very briefly.

MR. LIVINGSTON: My name is Bill Livingston. I am counsel for the plaintiff.

When the motion to vacate was made last June ---

THE COURT: Wait a minute. I would like to take it in the other order. I would like the parties who made the motion to speak first and then I would like to know why you joined it.

MR. SPLITT: Your Honor, I am David Splitt, General Counsel for the Board of Education, of counsel in this case.

The events, I think, should be given some perspective in this approach to this joint request to the Court.

The original movement in this area, through our motion to vacate, the defendants, was to present an alternative which the Board of Education had proposed that it would undertake in the absence of a Court order. This specific proposed

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1 matter of rule-making included, with some differences, the  
2 basis of the proposed modification.

3 In response to this Court's order of the 3rd of  
4 August and a general and specific request for information in  
5 discussion from counsel for the plaintiffs in this case, the  
6 public schools responded with information and responses to  
7 those specific areas of inquiry. At the conclusion of this  
8 exchange of information, discussion on the issues, the parties  
9 entered into -- and I believe that the record indicates that  
10 the plaintiffs brought forth this proposal for discussion and  
11 it was agreed to and the language was mutually agreed upon in  
12 an exchange between the parties, which has been submitted for  
13 the record.

14 The Board of Education supports and is a party to  
15 this joint request to the Court for modification of the '71  
16 decree, first, because it believes that the '71 order, or the  
17 remedy and formula issued in 1971, while it was, in light of  
18 the facts of 1971, a helpful, a positive and justified action  
19 by the Court, needed to be modified or vacated to reflect the  
20 facts, the situation and law of 1977. And we believe that the  
21 modified order, which we have requested jointly with the  
22 plaintiffs, would accomplish what the Board of Education is  
23 seeking in this regard. And I strongly support it on the  
24 grounds that it essentially reflects the thinking of the Board  
25 of Education and the school administration for how resources





1 in the public schools can be distributed equitably in such a  
2 way as would reflect a modification of the '71 order. In  
3 other words, the proposed rules of the Board of Education  
4 reflect an entire plan for resource distribution, including  
5 areas outside of this particular case, but the proposed  
6 modification, while continuing the involvement of the Court,  
7 would continue the involvement of the Court in such a way as  
8 to be fully compatible with the total plan that the Board  
9 of Education has for equitable distribution of resources and  
10 would eliminate the problems we have had with the changing  
11 situation in the applicability of the 1971 formula to 1977.

12 We feel it is a positive solution for 1977 and we  
13 support it.

14 THE COURT: Thank you, Mr. Splitt.

15 Mr. Livingston?

16 MR. LIVINGSTON: Your Honor, we agree with counsel's  
17 statement of the background of how this order came about, this  
18 proposal. We, likewise, support it. We support it because we  
19 believe this order will continue to insure, during its term,  
20 that there will be equal treatment of all schools in the  
21 elementary system in the District of Columbia.

22 During the month of August, when we obtained informa-  
23 tion from the defendants, which they supplied to us on two  
24 separate occasions, plus some meetings we had with their  
25 officials, we studied carefully the question as to whether the





1 present formula, based on salaries, ought to be continued.  
2 And we looked at that particularly from the viewpoint of  
3 the present distribution of experienced teachers in the system.

4 We discussed that data with people who are expert  
5 in the field, as listed in our brief, and we came to the  
6 conclusion that it was appropriate now, in view of the dramatic  
7 changes and circumstances in the makeup of the teacher staff  
8 in the D. C. system, it was now appropriate to change the  
9 formula to require equalization on the basis of teacher-pupil  
10 ratios. We are convinced that is a sound modification. We,  
11 therefore, proposed it to the Board and, after some changes,  
12 technical changes in the language, that was agreed to.

13 We have, likewise, supported and proposed the  
14 termination of judicial supervision in two five-year periods,  
15 so long as the defendants remain in compliance and so long  
16 as they enact, in the form of regulations, an equalization  
17 formula substantially identical as the one set forth in the  
18 proposed order.

19 We believe these events, changes in the facts,  
20 justify this proposed modification of the 1971 order.

21 THE COURT: Have you any position to state, from the  
22 study of this case, of how, in a practical way, this order will  
23 work out as compared to the other order? In other words, this  
24 order, which is predicated on the ratio, the teacher-pupil  
25 ratio as distinguished from the pupil expenditure ratio in the





1 first order, in practical terms, how will it work out  
2 differently?

3 MR. LIVINGSTON: We did not make a study or have one  
4 made that showed exactly how different schools would be  
5 affected by the application of one formula or another. And  
6 the defendants can better speak to that. I think, perhaps,  
7 they have made a study.

8 It is our understanding that there will not be  
9 massive or significant changes at any school as a result of  
10 the change in the formula at this time and that such changes  
11 in the formula, given present circumstances where most of the  
12 teachers are near or at the top of the longevity scale and,  
13 therefore, teachers are now treated substantially equal under  
14 the present formula, will not, therefore, require massive  
15 movements as a consequence of the change of one formula to  
16 another. But the defendants can far better explain that.

17 THE COURT: Thank you, Mr. Livingston.

18 Mr. Splitt, would you answer my question, please?

19 MR. SPLITT: Yes, Your Honor.

20 I have to take this in two stages. When the original  
21 recommendation from the school administration came forward,  
22 it included as part of the formula a equalization on the  
23 basis of per-pupil or pupils per instructional staff, which is  
24 very similar to a portion of the comparability requirements  
25 under Title I. There, of course, was a lot of study, a lot of





1 time put into that recommendation.

2 In addition, when the proposed joint modification was  
3 discussed and was presented to us initially, we took the  
4 language of the proposed order and checked that language, or  
5 the precise formula which we had before us, with the data to  
6 determine whether it would have an effect which could be  
7 assumed on its face. In other words, that it was, with the  
8 technical changes made between the language of the Board's  
9 proposal and the actual language of the proposed modification,  
10 whether there were any things that we overlooked in that that  
11 would cause disruption that was certainly not intended by the  
12 original proposal. We found none.

13 We found the proposed modification is far more  
14 reflective of the 1977 situation as resulted in the recommenda-  
15 tions for the system-wide formula in the proposed Chapter 7  
16 regulations. And, therefore, Your Honor, the effect of the  
17 modified order would be to eliminate the problems that have  
18 occurred due to the change in circumstances and reflect the  
19 reality of the school system in 1977 and, we believe, sub-  
20 stantially in the future.

21 THE COURT: Thank you, Mr. Splitt.

22 I have been over the papers and I am convinced that  
23 the order should be modified as counsel have agreed.

24 The June 19, 1967 order is still in effect and, of  
course, will remain in effect as issued. This modification





1 order, as I have been able to understand it, really is an  
2 effort to eliminate some of the practical problems that the  
3 administration has had in complying with the May 25, 1971 order  
4 without in any way diluting the responsibility of the School  
5 Board to provide an equal educational opportunity to all the  
6 District's school children. And, on that basis, this Court  
7 is very happy to cooperate.

8 I take note of the work that has been done in this  
9 phase of the case by the School Board attorneys and also by  
10 the Corporation Counsel attorneys. And I also take note of the  
11 work that has been done by counsel working pro bono. Mr.  
12 Rousselot has been in this phase of the case for some time  
13 and he, apparently, has found himself an assistant who has been  
14 able to assist him with this particular motion.

15 And I am happy to see the continuing interest in  
16 this case on the part of the American Civil Liberties Union  
17 and Mr. Temple.

18 In other words, these orders are still in effect.  
19 They will remain in effect once modified. The problem in the  
20 District of Columbia schools has not been remedied. The attempt  
21 of this particular administration has created a hope that it  
22 will be remedied and I want to encourage that hope and encourage  
23 the administration. In the meantime, the orders will apply.

24 And I hope that we will always have the benefit of  
25 lawyers -- such as Mr. Rousselot, Mr. Livingston, and Mr. Temple





1 of the ACLU -- to call the Court's attention to any problems  
2 which arise with reference to the enforcement of these orders  
3 so that we can continue to do what we have been endeavoring  
4 to do for the last decade.

5 And, as I indicated before, it seems to me that this  
6 administration of the schools provides a hopeful basis for  
7 making further progress.

8 And I want to thank the lawyers in this case, par-  
9 ticularly for the way in which they cooperated with each other  
10 in satisfying each other as to what was good for the schools  
11 in the District of Columbia. As I say, I am satisfied, as  
12 they are, that this order of May 25, 1971 should be modified.

13 The Court will stand recessed.

14 (Whereupon, at 2:17 p.m., the above-entitled matter  
15 was concluded.)

16 # # #

17  
18 Certified *[Signature]* Official Court Reporter  
19  
20  
21  
22  
23



UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, individually and on )  
behalf of JEAN MARIE HOBSON and )  
JULIUS HOBSON, JR., et al., )

Plaintiffs, )

v. )

CARL HANSEN, Superintendent of Schools )  
of the District of Columbia, THE BOARD )  
OF EDUCATION OF THE DISTRICT OF )  
COLUMBIA, et al., )

Defendants. )

Civil Action

No. 82-66

**FILED**

SEP 19 1977

JAMES F. DAVEY, CLERK

ORDER

1. For the five years from the date of this Order, no elementary school will be permitted to have a pupil-teacher ratio which deviates by more than plus or minus 5 percent from the citywide pupil-teacher ratio. The term "teacher" includes only certified regular classroom teachers paid from regular D. C. Budget, Impact Aid and other non-categorical federal funds and special subject teachers paid from such funds. (However, this Order does not apply to the allocation of teachers or special educational services for the handicapped.) For elementary schools having a kindergarten through sixth grade and having less than 250 students, a deviation of no more than minus 5 percent or plus 10 percent will be permitted.

2. For the following five years, no elementary school west of Rock Creek Park will be permitted to have

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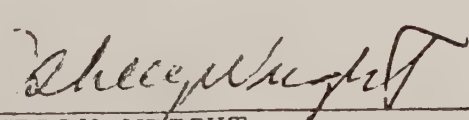




a pupil-teacher ratio which deviates by more than plus 5 percent from the citywide pupil-teacher ratio; schools west of Rock Creek Park having a kindergarten through sixth grade and having less than 250 students may deviate by no more than plus 10 percent. In addition, no elementary school in the lowest income quintile may have a pupil-teacher ratio which deviates by more than minus 5 percent from the citywide pupil-teacher ratio.

3. The requirements of paragraph 1 will expire automatically at the end of five years from the date of this Order absent a prima facie showing by plaintiffs and so long as those requirements have been adopted by the Board of Education in the form of regulations prior to the date of expiration. The requirements in paragraphs 2 and 4 will expire automatically at the end of the ensuing five years absent a prima facie showing by plaintiffs.

4. Defendants shall report annually to the Court concerning compliance with this Order and shall publish that report annually in the D. C. Register. That report shall include the numbers of pupils and of teachers in each elementary school, the pupil-teacher ratio for each such school, the citywide pupil-teacher ratio, and the average teacher experience in each school. In addition, during the second five-year period, such reports shall also identify those schools that are west of Rock Creek Park or are in the lowest income quintile.

  
\_\_\_\_\_  
J. SKELLY WRIGHT  
UNITED STATES CIRCUIT JUDGE

Washington, D. C.  
September 19, 1977





UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, individually and	)	
on behalf of JEAN MARIE HOBSON and	)	
JULIUS HOBSON, JR., <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	Civil Action
v.	)	
	)	No. 82-66
CARL F. HANSEN, Superintendent of	)	
Schools of the District of Columbia	)	
THE BOARD OF EDUCATION OF THE	)	
DISTRICT OF COLUMBIA, <u>et al.</u> ,	)	
	)	
Defendants.	)	

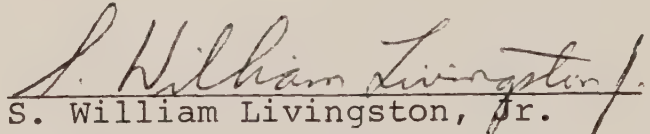
MEMORANDUM OF PLAINTIFFS AND INTERVENORS  
CONCERNING CERTAIN AGREEMENTS BETWEEN THE  
PARTIES WITH RESPECT TO THE INTERPRETATION  
OF THE PROPOSED ORDER SUBMITTED  
ON SEPTEMBER 12, 1977

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On September 7 and 14, 1977, the parties exchanged letters which reflect certain agreements between them with respect to the interpretation of the proposed Order submitted to the Court on September 12, 1977. Those letters are attached hereto as Attachments A and B respectively.

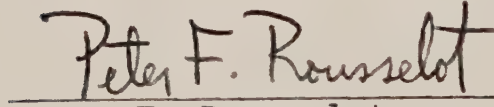
With the consent of defendants, plaintiffs and intervenors submit for the record the aforementioned correspondence.

Respectfully submitted,

  
S. William Livingston, Jr.  
888 Sixteenth Street, N. W.  
Washington, D. C. 20006  
(202) 452-6210

Of Counsel:

Ralph J. Temple  
American Civil Liberties  
Union Fund  
1345 E Street, N. W.  
Washington, D. C. 20004  
(202) 638-6263

  
Peter F. Rousselot  
815 Connecticut Avenue, N. W.  
Washington, D. C. 20006  
(202) 331-4720  
  
Attorneys for Plaintiffs and  
Intervenors



CERTIFICATE OF SERVICE

I hereby certify that I have this 15th day of September, 1977 served the foregoing "Memorandum Of Plaintiffs And Intervenors Concerning Certain Agreements Between The Parties With Respect To The Interpretation Of The Proposed Order Submitted On September 12, 1977" on defendants by delivering a copy by hand to:

Robert L. Chernikoff, Esquire  
Assistant General Counsel  
Government of the District of Columbia  
Room 312, District Building  
14th and E Streets, N. W.  
Washington, D. C. 20004

David A. Splitt, Esquire  
General Counsel  
D. C. Board of Education  
415 12th Street, N. W.  
Washington, D. C. 20004

  
\_\_\_\_\_  
Peter F. Rousselot







BOARD OF EDUCATION  
OF THE

ATTACHMENT A

THERMAN E. EVANS  
PRESIDENT

DISTRICT OF COLUMBIA

CAROL L. SCHWARTZ  
VICE PRESIDENT

BETTIE G. BENJAMIN JULIUS W. HOBSON, JR. ELIZABETH C. KANE BARRARA LETT SIMMONS  
CONRAD P. SMITH VICTORIA T. STREET WILLIAM W. TREANOR JOHN E. WARREN MINNIE S. WOODSON

September 7, 1977

Peter F. Rousselot, Esquire  
815 Connecticut Avenue, N.W.  
Washington, D. C. 20006

S. William Livingston, Jr., Esquire  
888 Sixteenth Street, N.W.  
Washington, D. C. 20006

Gentlemen:

Pursuant to our discussion on Friday, September 2nd, in the case of Hobson v. Hansen, I have reviewed your proposed modification of the 1971 Order with Mr. Winner, Mr. Margolies, and other members of the Public School administration. The following comments include some clarification of the understanding we have of the proposed language and a suggestion for one change in the wording:

- 1) The Public School administration understands that the calculations required by the proposed order would be made on the following bases:
  - (a) The number of students in the system (citywide total) and the number of students at each individual school would be based on "official membership," as determined on the date when such numbers are normally established. This would be consistent with the existing practice under the 1971 Order.
  - (b) Membership figures would reflect "full-time equivalent" membership, which assigns half-value to students in half-day programs. This would also be consistent with existing practice.
  - (c) All pupil-teacher ratios would be mathematically calculated to one decimal place (tenths of a per cent) in order to minimize the effect of "rounding off."
- 2) Since there would be a variation between plus (+) percentage deviation and minus (-) percentage deviation in some instances under the proposed

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DWIGHT S. CROFF  
EXECUTIVE SECRETARY

DAVID A. SPLITT  
GENERAL COUNSEL





modified order, it is important that all parties have the same understanding of the meaning of the plus/minus (+/-) indicator. The Public School administration has the following understanding of the meaning of the plus/minus indicator:

- (a) PLUS (+) indicates that an individual school's pupil-teacher ratio is lower than the citywide pupil-teacher ratio. Thus, if the citywide pupil-teacher ratio were 26:1 and a particular school had a 25:1 pupil-teacher ratio, that school would have a "better than average" or POSITIVE (+) deviation from the citywide pupil-teacher ratio.
- (b) MINUS (-) indicates that an individual school's pupil-teacher ratio is higher than the citywide pupil-teacher ratio.

This interpretation is consistent with the provisions of paragraphs one and two of the proposed modified order.

- 3) The Public school administration understands the proposed language "certified regular classroom teachers" to mean all teachers paid from the general fund and non-categorical grant funds. Further, the term includes all teachers, including special subject teachers, TSA-15 or the equivalent, whose employment status is permanent, probationary, probationary under contract, or temporary. It is understood that teachers with temporary status include any teacher appointed to fill a position which is already encumbered by a regular teacher on extended leave (with a right to return and claim the position) or any teacher who is appointed to fill a vacancy for which no more qualified applicant is available.

It is also understood that teachers of special education shall not be counted in determining pupil-teacher ratios under the modified order.

- 4) We suggest that the word "average" be deleted from the proposed language where it is used to modify the term "citywide pupil-teacher ratio." The "citywide pupil-teacher ratio" is, in and of itself, an average. [In other words, a "citywide average pupil-teacher ratio" would be an "averaged average" which could only be figured by taking an average of the combined averages of all individual schools, a result which does not appear to be consistent with the intent of the proposal.]

The citywide pupil-teacher ratio would be determined by the following formula:

$$\frac{\text{Total Citywide Pupil Membership}}{\text{Total Teaching Positions Assigned}} = \text{Citywide P/T Ratio}$$

This formula is also consistent with the reporting requirement in the fourth paragraph of the proposed modified order. The pupil-teacher



ratio for each individual school would be determined according to the following formula:

$$\frac{\text{Total School Pupil Membership}}{\text{Number of Teachers Assigned to School}} = \text{Individual School P/T Ratio}$$

Thus, the language of the first paragraph of the proposed modified order would begin with the following sentence:

1. For the next five years, no elementary school will be permitted to have a pupil-teacher ratio of more than  $\pm 5\%$  of the citywide pupil-teacher ratio. . .

Similarly, the word "average" should be deleted throughout the proposed modified order.

I hope that you find these comments and suggestions to be constructive and acceptable. I am confident that a joint submission to the Court can be worked out on the basis of your proposed modification of the 1971 Order, and I am available to discuss the further, and hopefully final, resolution of the language of the proposed modification at your earliest convenience.

Sincerely,



David A. Splitt  
General Counsel

cc: Mr. Chernikoff  
Mr. Margolies  
Mr. Winner





COVINGTON & BURLING

888 SIXTEENTH STREET, N. W.

WASHINGTON, D. C. 20006

ATTACHMENT B

TELEPHONE  
(202) 452-6000

WRITER'S DIRECT DIAL NUMBER

(202) 452-6210

September 14, 1977

TWX: 710-822-0005

TELEX: 89-593

CABLE: COVLING

BY HAND

David A. Splitt, Esquire  
General Counsel  
D. C. Board of Education  
Suite 1107  
415 Twelfth Street, N. W.  
Washington, D. C. 20004

Dear David:

We have reviewed your letter of September 7, 1977, concerning your understanding of the proposed modification of Judge Wright's 1971 Order in Hobson v. Hansen. For convenient reference, our comments on your September 7 letter are set forth below under paragraph numbers which correspond with those in that letter:

- 1) (a) We agree that the use of "official" student "membership" as determined on the date when such numbers are normally established is an acceptable method of determining the number of "pupils" in school for purposes of compliance with the proposed modified Order.
- (b) We agree that the use of membership figures to reflect "full-time equivalent" membership is an acceptable method of determining the "number" of pupils for compliance purposes. In similar fashion, we understand from our discussions with you that the Order is to be interpreted as requiring that you will also use "full-time equivalent" membership in determining the "number" of teachers for compliance purposes. E.g., a special subject teacher



David A. Splitt, Esquire  
September 14, 1977  
Page Two

who spends two full days per week at an elementary school should be counted in that school's teacher count as 2/5 of a teacher.

(c) We agree that mathematically calculating pupil-teacher ratios to one decimal place is an acceptable method of computing such ratios for compliance purposes.

- 2) We share your understanding of the meaning of the plus/minus indicator.
- 3) Based upon our discussions in your offices on September 2, 1977, we have no present basis and therefore do not disagree with your proposal to define "certified regular classroom teachers" to include:
  - (a) all teachers paid from the general fund and non-categorical grant funds;
  - (b) all teachers, including special subject teachers, TSA-15 or the equivalent, whose employment status is permanent, probationary, probationary under contract, or temporary.

We understand from our discussions with you that teachers on extended leave will not be included in the teacher count for individual schools or for the citywide total.

As you were informed on September 2, we are concerned about the possibility, however remote it may be at present, that undesirable trends could arise over the life of the proposed modified decree in the assignment of probationary (including probationary under contract) and temporary teachers. Accordingly, we suggested to you





David A. Splitt, Esquire  
September 14, 1977  
Page Three

that the compliance reports required by paragraph 4 of the proposed modified decree be prepared in such a way that the number of teachers in each of these categories be separately set forth for each elementary school; we understand from our discussions with you that this suggestion is acceptable.

The exclusion of special education pupils and teachers is now expressly dealt with in the proposed amended decree and requires no further comment.

- 4) The proposed decree has been modified to delete the word "average" in the appropriate places.

Based on discussions with you, we understand that it was your intent that the denominator in the equation at the bottom of page 2 of your letter was intended to be a total of the number of funded and committed teaching positions actually assigned for work in each elementary school, and should have read "Total Number of Teachers Assigned to Schools" rather than "Total Teaching Positions Assigned."

(This permits calculations based on temporary vacancies in funded and assigned positions which are to be filled for the school year and which have resulted from such occurrences as the resignation or termination of a particular teacher.) On the basis of this understanding, and on the further understanding that the denominator in the equation on the top of page 3 of your letter likewise refers to the number of funded and committed teaching positions actually assigned for work in a particular school, we regard your method of calculating pupil-teacher ratios as an acceptable one under the proposed decree.

Our only other general comment, and one not specifically raised in your letter, is that we interpret the proposed decree as covering only pupils in kindergarten through the

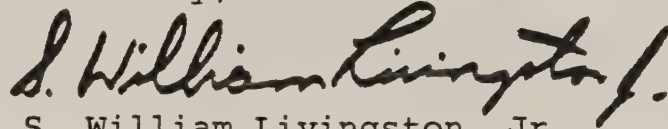


David A. Splitt, Esquire  
September 14, 1977  
Page Four

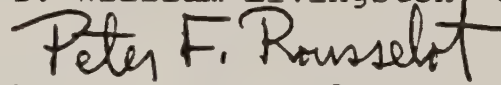
sixth grade and their teachers. In other words, for example, seventh or eighth grade pupils (or teachers who only teach such pupils) who have their classes in an elementary school would not be included for compliance purposes. We understand from our discussions that you share this interpretation.

Pursuant to our understanding, we will file this letter and your letter of September 7, 1977 with the Court.

Sincerely,

A handwritten signature in cursive script that reads "S. William Livingston, Jr.".

S. William Livingston, Jr.

A handwritten signature in cursive script that reads "Peter F. Rousselot".

Peter F. Rousselot

ab





UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, individually and	)	
on behalf of JEAN MARIE HOBSON and	)	
JULIUS HOBSON, JR., <u>et al.</u> ,	)	
	)	
Plaintiffs,	)	
	)	Civil Action
v.	)	
	)	No. 82-66
CARL F. HANSEN, Superintendent of	)	
Schools of the District of Columbia,	)	
THE BOARD OF EDUCATION OF THE	)	
DISTRICT OF COLUMBIA, <u>et al.</u> ,	)	
	)	
Defendants.	)	

MEMORANDUM OF PLAINTIFFS AND INTERVENORS  
IN SUPPORT OF A MODIFICATION OF THIS  
COURT'S ORDER OF MAY 25, 1971

Introduction

The parties this date have submitted to the Court a Proposed Order to replace the Order of May 25, 1971. This Proposed Order changes the applicable equalization formula from per pupil expenditures for teachers' salaries to pupil teacher ratios and expires by its own terms ten years from the date it is entered. For the reasons discussed in this memorandum, we believe the Proposed Order, along with the Court's earlier decree of June 19, 1967, 269 F. Supp. at 517-18, will continue to "ensure that the [District of Columbia school system] operates in a substantially non-discriminatory fashion." 327 F. Supp. at 863.

I. Events Leading Up To The Proposed Order

On June 29, 1977, defendants filed a motion to vacate the "equalization" Order of May 25, 1971 ("1971 Order"). Plaintiffs filed a memorandum in opposition to this request that the 1971 Order be immediately rescinded. On August 3,



this Court entered an Order directing defendants to respond to certain arguments made in plaintiffs' memorandum. The Order further directed defendants to "confer with counsel for plaintiffs and disclose such information from defendants' files as will illumine the defendants' positions on the issues raised in this Order," and to make available "any further information requested by plaintiffs' counsel which may be relevant to a change in the applicable equalization formula."

On August 5, 1977, plaintiffs served on defendants and filed with the Court a request for the production of documents relating to the distribution of teachers between elementary schools and to similar matters which plaintiffs' counsel considered relevant to equalization questions. Defendants substantially complied with this request by providing plaintiffs with a number of studies and reports concerning the allocation and equalization of educational resources in the D. C. public school system.

Plaintiffs' counsel reviewed such documents and made them available to certain consultants for plaintiffs, including Dr. Albert Gollin, Bureau of Social Science Research (Washington, D. C.); David Long, Esquire and Michael Gaffney, Esquire, School Finance Project, Lawyers' Committee For Civil Rights Under Law (Washington, D. C.); and Dr. Joan Baratz of the Education Policy Research Institute of the Educational Testing Service (Washington, D. C. and Princeton, New Jersey). Each of these individuals had prior extensive experience with educational equalization questions, both generally and specifically in regard to the District of Columbia school system. Plaintiffs' counsel discussed the present proceedings with them on several occasions and consulted with them throughout the process leading up to the Proposed Order.





On August 17, 1977, plaintiffs' counsel, together with their consultants, Messrs. Gollin and Gaffney, met with a number of representatives of defendants including Mr. Edward Winner, Deputy Superintendent, D. C. Public Schools, Mr. Ronald Webb, Executive Assistant to the Superintendent, Ms. Elizabeth Yancey, Vice Superintendent, and George Margolies, Esquire, Legal Counsel to the Superintendent. The meeting was cordial and fulfilled its purpose of developing additional facts, particularly with respect to the administrative difficulties in implementing present equalization procedures. Subsequent to the meeting, plaintiffs counsel requested additional information, principally statistical data. That information was supplied on August 31, 1977.<sup>\*/</sup>

Based on a review of the documents and information supplied to us, and after extensive discussions with consultants, it became apparent that in certain particulars the 1971 Order ought to be modified (but not vacated) to conform to changes in the facts which have occurred since 1971. Accordingly, plaintiffs' counsel drafted an Order to replace the 1971 Order, and submitted it to defendants for their consideration. Defendants agreed to the proposal in all material respects and, after certain technical modifications were made in the language of the proposal, it was formally agreed to by the parties. The Proposed Order is now submitted to the Court with a request that it be approved.

## II. Explanation Of The Proposed Order

The 1971 Order requires that per-pupil expenditures on teachers' salaries and benefits at each elementary school be within five percent of the mean per-pupil expenditure for

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<sup>\*/</sup> We understand that defendants will file this information with the Court.



all elementary schools in the city. 327 F. Supp at 863-64. The Proposed Order differs in certain major respects from the 1971 Order, as described below.

First, the Proposed Order makes a significant change in the way in which equalization is to be measured. Under the 1971 Order, equalization is achieved on the basis of teachers' salaries, which requires balanced distribution of experienced teachers or offsetting benefits to those schools with a disproportionate number of inexperienced teachers. The Proposed Order, instead of using teachers' salaries as the measure for equalization, requires equalization (with a five percent permissible deviation) on the basis of pupil-teacher ratios at each school.

Second, although the Proposed Order retains the requirements of the 1971 Order that equalization be within plus or minus five percent, an exception is marked out for very small schools (those with fewer than 250 students), where a deviation of minus five percent and plus ten percent is permitted.

Third, the Proposed Order requires less information to be reported annually by defendants than was called for by the 1971 Order (but nonetheless information sufficient to show whether defendants are in compliance). The Proposed Order also contains a new requirement that the annual reports be published in the D. C. Register, which should make them more readily available to parents, school administrators, teachers and other interested citizens.

Fourth, the Proposed Order expires by its own terms ten years from its effective date. The requirement that teachers be allocated on an equal basis for each elementary school will terminate after five years. During a second





five year period, the scope of the Proposed Order's coverage is limited to the placement of a ceiling on the allocation of teachers to schools west of Rock Creek Park and a protective floor with regard to the allocation of teachers to schools in the lowest-income quintile. At the end of the second five year period, the Proposed Order would automatically terminate absent a showing by plaintiffs and provided that the Board had adopted in its regulations during the first five year period equalization requirements that are consistent with those in the Proposed Order.

As explained below, the provisions of the Proposed Order which differ from those of the 1971 Order are justified and, under existing circumstances, the Proposed Order should provide a more workable and fair equalization procedure than would continuation of the 1971 Order. The 1971 Order played a crucial role in restructuring the elementary school system in the District of Columbia so as to ensure equal educational opportunities, and quickly led to the correction of large discriminatory imbalances in the distribution of educational resources. Since that time, significant changes have occurred in the underlying facts, not the least of which is an acceptance on the part of defendants of the need for a continuing commitment to equalization, and it is these changes that justify the proposed departure from the otherwise salutary requirements of the 1971 Order.

A. The Use Of Pupil-Teacher Ratios As The Basis For Equalization.

The Proposed Order would equalize on the basis of pupil-teacher ratios rather than on the basis of per-pupil expenditures for teacher salaries as required by the 1971 Order. The effect would be to treat all teachers as equivalent educational resources instead of distinguishing between them



on the basis of their salaries. Such distinctions in turn reflect the two factors that principally account for the differences in teachers salaries: first, and most important, salaries increase with longevity; second, a teachers' salary reflects the presence of graduate degrees or credits. 31 D. C. Code §§ 1501, 1521 (Supp. IV). There no longer appears a necessity to make these distinctions between teachers in order to ensure equal allocation of teaching resources and, indeed, continuation of the present formula may in the future have whimsical and capricious effects.

1. Longevity

In its 1967 Opinion, the Court observed that "it cannot be questioned that the initial few years of teaching make an enormous contribution to a teacher's competence." 269 F. Supp. at 434. The Court further noted that the predominantly white schools in the District of Columbia had a larger percentage of teachers who "have these vital first years of experience to fall back on." Id. at 435. In its 1971 decision, the Court found that there continued to be substantial imbalances in the assignment of inexperienced teachers, and that the imbalance decidedly favored schools west of the Park. For instance, the evidence showed that 68.3 percent of the teachers west of Rock Creek Park were of the "'highest quality' as judged by the standard of six years or more of experience." while only 60.4 percent of the teachers east of the Park met this standard. 327 F. Supp. at 855 n. 20. The imbalance in the distribution of experienced teachers, coupled with lower pupil-teacher ratios in schools west of the Park, resulted in differences in per-pupil expenditures as high as 40 percent between schools west of the Park and schools in Anacostia. Id. at 849.





Data provided to plaintiffs in response to the Court's Order of August 3, 1977, have again confirmed that many schools in Anacostia in 1971 had a disproportionate share of new and relatively inexperienced teachers. To take some particularly egregious examples, 50 percent of the classroom teachers<sup>\*/</sup> at Birney in 1971 - 1972 had less than six years' experience, 57 percent at Draper, 61 percent at Nalle, 51 percent at Simon, and 53 percent at Weatherless. (Attachment A). Approximately 35 percent of all the classroom teachers in Anacostia elementary schools in 1971 had less than six years of experience. By contrast, only 26 percent of the classroom teachers in elementary schools west of the Park had fewer than six years' experience.

The facts have changed dramatically since 1971. A steady decline in student enrollments has resulted in a corresponding decrease in the number of teachers employed in the elementary system, from a high of 3,519 in 1970 to 2,937 in 1976. Teaching opportunities in other jurisdictions have likewise declined, so that experienced teachers are no longer able to leave the system at will and secure teaching jobs elsewhere. As a direct result, there has been little hiring of new personnel by the District over the past several years and the average experience of its teachers has steadily increased, so that today the average level of experience in the District of Columbia system is 11.7 years. There has likewise been a sharp decline in the number of inexperienced teachers in the system. Whereas 33 percent of the elementary classroom teachers in 1971 had fewer than six years' experience (and were disproportionately located in Anacostia, only 13 percent

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\*/ The elementary teaching staff is generally divided between classroom teachers and special subject teachers, with the latter comprising from 20 to 25 percent of the total.



of such teachers employed last year had fewer than six years of experience. (Attachments A and B). There is in addition no foreseeable prospect that this trend will be reversed -- the school system projects a teaching staff for 1979 that will be less than the number hired in either 1976 or 1977.

The effect of these changes, joined with the requirements of the 1971 Order, has been to eliminate any vestige of the conditions which prompted that Order -- the disproportionate concentration of new and inexperienced teachers in schools east of the Park, particularly in Anacostia. For instance, Birney now has only one classroom teacher with less than six years' experience compared to 17 in 1971; Draper now has only one in that category compared to 23 in 1971; Nalle has none compared to 22 in 1971; Simon has only two teachers with less than six years' experience compared to 19 in 1971; and Weatherless has only five compared to 15. (Attachments A and B). Of the 41 schools in Anacostia for which data are available, 27 had only two or fewer classroom teachers with less than six years' experience in 1976 and 12 schools had no teachers in that category. Only 13.2 percent of the classroom teachers in all Anacostia schools in 1977 had less than six years' experience, compared to 22.9 percent in the schools west of Rock Creek Park and 13.2 percent for the city as a whole. The statistics therefore do not show that any area of the city is loaded with newly hired teachers (as





was the case in 1970) and, in view of the fact that there are so few such teachers at present in the elementary system, it is highly improbable that there will be a recurrence in the foreseeable future of the prior imbalance.<sup>\*/</sup>

We recognize that this Court in 1971 was not concerned solely with the unequal distribution of new teachers or of teachers with less than six years' experience, and the Court's decision acknowledged that there was a continuing relationship between a teacher's performance and a teacher's experience that did not invariably end after five or six years of teaching. 327 F. Supp. at 855. While we do not question the correctness of that judgment, it is nonetheless clear that a central problem in 1971 was the unequal distribution of teachers who were without the "vital first years of experience". At present, virtually all teachers in the system have such experience and no area of the city is or could be unfairly assigned large numbers of inexperienced personnel.

For the upcoming school year, the continued use of teachers' salaries as a measure for equalization could have

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<sup>\*/</sup> It is also pertinent that the new teachers hired today are likely to have better credentials than those hired in 1970, and thus there is a smaller gap between the abilities of newly hired teachers and experienced teachers than there was in 1970. Because the demand for teachers prior to 1970 often exceeded the available supply of fully-certifiable applicants, the school system frequently had to hire persons on a provisional or temporary basis who had less than the full requirements. Today, the situation apparently has been reversed and there is no longer a need to hire new personnel on such terms.



the effect of requiring one or more teacher transfers from a school with average teacher experience of, say, fifteen years, to a school with an average of ten years of experience but in which all teachers have more than six years' experience. Such transfers could not be justified on the same basis as supported the 1971 Order, when it was necessary to correct the situation in which Anacostia schools had a large imbalance of new, inexperienced teachers without any compensating benefits. Moreover, we know of no basis for believing that differences in teacher experience at such high levels reflect differences in ability or performance that require judicial equalization on a school-by-school basis.

The proposal to equalize on the basis of pupil-teacher ratios rather than salaries may also alleviate defendants' principal grievance with the 1971 Order, i.e., that teachers must be shifted from school to school after the beginning of the school year in order to achieve compliance. Under the Proposed Order, such shifting as has occurred because of salary differences will no longer be necessary (e.g., where a high-salaried teacher with twenty-years' experience has retired and been replaced by a teacher with only eight years' experience, with the result that a particular school exceeds the permissible five percent deviation). Under Title I, the school system already is required to equalize the allocation of "instructional staff" and the shifting of personnel after the beginning of the school year has frequently been required for this purpose. Since the Proposed Order measures equalization on a basis similar to Title I (i.e., neither makes reference to longevity pay), the additional shifting of personnel to comply with the Proposed Order beyond that required by Title I should be minimal.





## 2. Graduate Degrees

The other major factor in determining a teacher's salary is graduate degrees or credits. This factor is not as significant as longevity -- teachers' salaries may differ by as much as \$8400 as a result of longevity whereas the difference between a teacher with a master's degree compared to one with a bachelor's degree ranges between \$1,000 and \$2,775. 31 D.C. Code § 1501 (Supp. IV). There is thus relatively little practical difference between an equalization formula that treats all teachers alike and one that takes account of graduate degrees.

Further, in line with the increased longevity of the District's elementary teachers, there has been a sharp increase in the percentage of teachers with graduate degrees. (Many teachers in the school system have continued to obtain credits in order to improve their skills and to obtain salary increases.) In 1971, approximately 16 percent of the classroom teachers had master's degrees or higher; by 1976, over 43 percent of the classroom teachers had such degrees. The Court noted in 1971 that only 11.8 percent of the teachers in Anacostia had master's degrees or higher, whereas in 1976 no school in the entire system had a percentage as low as that. 327 F. Supp. at 855 n.21. In addition, defendants have provided school-by-school statistics on the distribution of teachers with graduate degrees, and the statistics do not show that such distribution is grossly discriminatory or widely disproportionate between regions.

In view of the modest salary differentials resulting from graduate degrees, the substantial number of teachers in the system that now have such degrees, and the absence of any apparent regional discrimination in the distribution of such



teachers, to require equalization on the basis of this factor seems unnecessary and not worth the administrative inconvenience of departing from a pupil-teacher ratio.

\* \* \* \* \*

In summary, the facts before the Court today do not justify the continuation of an expenditure equalization formula which includes components for longevity and graduate degrees. Once these two components are eliminated, an equalization formula based on pupil-teacher ratios rather than expenditures serves the valid purposes of an expenditure equalization formula and is more easily administered.

B. The Exception for "Small Schools"

The Proposed Order provides that schools having a kindergarten through sixth grade and with fewer than 250 students can deviate within a slightly larger range than other schools in the system, between minus five percent and plus 10 percent. Such schools generally have only enough students to permit one class for each grade. There were only approximately fourteen schools with fewer than 250 students in 1976.

A deviation of only plus or minus five percent is too rigid for schools that fall within this exception. The presence or absence of one or two pupils could throw a particular school out of compliance. If that occurred on the "plus side" so as to require a reduction in teachers, the reduction could result in depriving a school of even the minimum number of teachers needed for day-to-day operations. Each class obviously must have a regular classroom teacher and, if the classes are sufficiently smaller than the citywide average (so that a low pupil-teacher ratio results) the school may have no option but to lose all of its special subject teachers, and may even be threatened





with a loss of classroom teachers, thereby forcing the combining of different grades into a single class.

This exception has nothing to do with "economies of scale". It is simply intended to permit greater flexibility for those few schools that are so small that strict mathematic compliance with a five percent deviation may have an unusually severe impact.

### C. Reporting Requirements.

The reporting requirements of the Proposed Order are designed to supply the information necessary to monitor compliance and to keep track of the distribution of experienced teachers. In addition, a new concept has been added: a requirement that the reports be published in the D.C. Register so that they will be more readily available to interested citizens.

The reporting requirements of the 1971 Order are substantially more extensive than those proposed here. At the time the 1971 Order was entered, the D.C. school system's ability to collect and marshall data on educational resource allocation was primitive, and it was necessary to force defendants to correct this deficiency. Since 1971, the defendants have expanded substantially their information retrieval capabilities. Compliance with Title I ESEA requires defendants to collect relevant educational resource allocation data and report it to HEW on at least an annual basis. Moreover, defendants are beginning to make use of their information retrieval capability for their own educational resource allocation purposes.

In our view, the foregoing developments justify the simpler reporting requirements embodied in the Proposed Order.



D. The Termination of the Proposed Order After Ten Years.

Under the Proposed Order the requirement of school-by-school equalization in the assignment of teachers would lapse after five years, provided the Board of Education had adopted the same equalization requirements on its own in the form of regulations.<sup>\*/</sup> For the next five years, the Order's requirements would be less stringent in that they would only ensure that schools west of the Park (the historic recipients of favored treatment for racial reasons) not be assigned relatively more teachers than other schools and that the schools with the lowest income black students (the victims of discrimination that the Court has been chiefly concerned in protecting) not be allocated disproportionately small teaching staffs.

These provisions of the Proposed Order are based on our belief that it is now appropriate to set a date for the expiration of specific and judicially enforceable requirements for equalization. This belief in turn is premised in part on the fact that the 1971 Order has accomplished much of its original purpose.

The 1971 Order has had the direct effect which the Court intended: The elimination of the then unequal, haphazard and discriminatory allocation of educational resources, and the establishment of procedures and administrative capabilities for the assignment of teachers on an equal basis. (The results are shown in the annual compliance reports filed with the Court.) Further, the necessity for compliance with the 1971 Order, as well as the necessity for compliance with Title I ESEA, appear to have been primary factors in compelling defendants to develop

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<sup>\*/</sup> The Board might, of course, repeal such regulations after the Order terminated, but to do so would require a vote and open debate by the Board.





their automated information retrieval system, which for the first time gave defendants the tools for determining precisely where and how its resources are allocated.

Moreover, the 1971 Order has had important beneficial side effects which were not foreseen at the time the decree was entered. For example, in preparing to equalize teacher expenditures in time for the 1971 - 1972 school year, consultants retained by defendants to prepare a compliance plan discovered that there was a marked imbalance in the allocation of reading teachers. Thus, immediately prior to the first year of equalization, "schools west of Rock Creek Park, for which reading scores with one exception ranked in the top quintile, had received 7 percent of D.C. expenditures for reading while enrolling less than 4 percent of the students. Furthermore, Anacostia schools, for which reading scores were slightly below the citywide mean, had received 28 percent of reading teacher expenditures for more than 37 percent of the pupils."<sup>\*/</sup> This imbalance and others were "corrected by reassignment" in the first year of compliance.<sup>\*\*/</sup>

Despite the substantial progress that has been made as a result of the 1971 Order, we do not believe that specific and judicially enforceable requirements for equalization should cease immediately, as defendants originally requested in their motion to vacate. Since the departure of Carl Hansen, there have been four superintendents and two acting superintendents over a ten-year period, and, until the last few years, the school administration has suffered occasional turmoil. Under these circumstances, the extension of the Proposed Order for an additional ten years is warranted.

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<sup>\*/</sup> H.S. Winokur, Jr., "Expenditure Equalization in the Washington, D.C. Elementary Schools", 24 Public Policy 320 (1976).

<sup>\*\*/</sup> Id.



Further, the proposed termination date will be an incentive to defendants not only to stay in compliance during the next ten years and to adopt their own regulations on equalization, but also to conduct themselves in a fashion so that plaintiffs will have no basis for exercising their rights under the Proposed Order to block expiration by making an appropriate showing.

In addition, even after the Proposed Order expires, plaintiffs will not be without judicial remedies. The 1967 decree remains in effect and provides in its first paragraph that defendants are "permanently enjoined from discriminating on the basis of racial or economic status in the operation of the District of Columbia public school system." 269 F. Supp. at 517. So long as this requirement is in force, any return to the disproportionately unequal distribution of resources between white and black schools or between rich and poor schools would be subject to judicial correction under the 1967 decree. Our discussions with defendants in the last several weeks have convinced us that concerned citizens seeking fair treatment for black and poor students in the public schools are far more likely to find relief from the elected Board of Education than they would have during the decades of neglect and discrimination that ultimately led to the corrective measures forced by this Court's decrees.

This Court's decrees of 1967 and 1971 have been essential in guaranteeing the constitutional rights of the poor and black children in the District of Columbia, rights which had proven incapable of protection by the responsible public officials. On the facts before the Court in 1966 - 1967 and 1970 - 1971, the decrees rendered were proper, appropriate, and would be sought again





should such facts recur in this school system. Moreover, the Court's opinions of 1967 and 1971 have proven to be landmarks in the development of constitutional principles concerning equal educational opportunity. We believe that those principles have increasingly become a part of the basic framework of the Board of Education's policy (in the same way that the principles of Bolling v. Sharpe are no longer controverted in the District by any significant segment of the community).

III. Comparison of the Proposed Order with  
The Board's Proposed Regulations

This proceeding was reopened by defendants' motion to vacate the 1971 Order. The motion referred to the Board's proposed regulations concerning the allocation of educational resources. Plaintiffs' memorandum of July 29, 1977 opposed the request that the 1971 Order be vacated and criticized the adequacy of the "equalization" requirements of the proposed regulations. The Proposed Order fully satisfies the objections and criticisms made in our July 29 memorandum.<sup>\*/</sup>

The July 29 memorandum attacked the adequacy of the equalization requirements of the proposed regulations on two grounds. First, the proposed regulations permitted equalization on the basis of "instructional staff" so that teachers were placed on a par with clerical personnel, paraprofessionals, aides, etc. Second, the regulations contained a "gaping loophole" for

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\*/ The Board's proposed regulations were not confined to the distribution of teachers in the elementary school system, and were concerned, inter alia, with matters of curriculum and testing. Approval of the Proposed Order is no impediment to the implementation of the policies set forth in the regulations, including the provision in the regulations on the allocation of "instructional staff." The Proposed Order establishes a requirement for equal pupil-teacher ratios that is not inconsistent with any provision of the proposed regulations.



"diseconomies of scale." The Proposed Order rejects both of these approaches. It follows the 1971 Order by focusing only on teachers and contains no exception for supposed economies of scale.


The proposed regulations required annual reporting by the Superintendent but did not specify the data that would be contained in such reports. The Proposed Order, on the other hand, provides that there shall be annual reports showing for each school the number of pupils, the number of teachers, the pupil-teacher ratio, and average teacher experience.

Finally, our July 29 memorandum opposed defendants' request that the 1971 Order be vacated summarily, with no showing of facts or circumstances to justify such action. Now that we have had the opportunity to review the facts, plaintiffs support a Proposed Order which provides for an additional ten years of enforcement of a specific and judicially manageable equalization formula which differs in the respects noted above from the formula embodied in the 1971 Order.

#### CONCLUSION

For the reasons stated above, plaintiffs respectfully request the Court to enter and approve the Order proposed by the parties as a replacement for the Order of May 25, 1971.


Respectfully submitted,

  
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D. C. PUBLIC SCHOOLS - NUMBER AND PERCENTAGE OF ELEMENTARY  
TEACHERS WITH SIX YEARS OR LESS EXPERIENCE: 1971-1972

ANACOSTIA

<u>School</u>	<u>Grade 1 - 6</u>	<u>Special Subject</u>	<u>Grade 1 - 6 Under 6</u>	<u>Percent Under 6</u>	<u>Special Subject Under 6</u>	<u>Percent Under 6</u>
Aiton	27.00	5.76	5.00	18.50	3.37	58.50
Beers	30.00	5.43	9.00	30.00	1.70	31.30
Benning	13.00	3.58	4.00	30.70	1.18	32.90
Birney	34.00	6.42	17.00	50.00	2.37	36.80
Burrville	15.00	6.36	3.00	20.00	2.20	36.00
Carver	9.00	2.34	2.00	22.20	1.24	52.90
Congress Heights*						
Davis	34.00	8.22	6.00	17.60	4.14	50.30
Draper	40.00	8.55	23.00	57.50	3.00	38.00
Drew	31.00	7.09	11.00	35.40	2.74	38.60
Fletcher-Johnson*						
Friendship*						
Garfield	29.00	6.72	14.00	48.20	4.20	62.50
Green	38.00	10.18	12.00	31.50	5.58	54.80
Harris	30.00	5.44	9.00	30.00	3.65	57.00
Hendley	33.00	5.51	11.00	33.30	3.34	60.60
Houston	26.00	5.14	7.00	26.90	2.25	43.70
Kenilworth	24.00	5.90	6.00	25.00	2.96	50.10
Ketcham	29.00	6.10	15.00	51.70	4.20	68.60
Kimball	31.00	7.75	9.00	28.00	4.25	54.80
Leckie	26.00	5.78	6.00	23.00	2.80	48.40
Malcolm X*						
McGogney	29.00	7.10	13.00	44.80	2.60	36.60
Merritt	16.00	5.06	2.00	12.50	2.21	43.60
Moten	40.00	8.43	8.00	20.00	5.17	61.30
Nalle	36.00	6.49	22.00	61.10	41.00	63.00
Nichols Avenue	8.00	2.80	4.00	50.00	1.80	28.50
Orr	13.00	2.67	5.00	38.40	1.97	73.70
Patterson	26.00	5.65	6.00	23.00	2.20	38.90
Plummer	29.00	5.18	9.00	31.00	2.89	55.70
Randle Highlands	17.00	4.42	7.00	41.10	2.37	53.60
Richardson	24.00	6.24	8.00	33.30	4.64	74.30
River Terrace	12.00	3.41	1.00	8.30	2.41	70.60
Savoy	35.00	8.08	13.00	37.10	4.00	49.50
Shadd	30.00	5.88	12.00	40.00	2.29	38.80
Sixteenth & Butler*						
Simon	37.00	8.01	19.00	51.30	4.27	53.30
Smothers*						
Stanton*						
Terrell*						
Thomas	25.00	6.24	12.00	48.00	2.54	40.70
Turner	32.00	7.66	10.00	31.20	5.31	69.30
Washington Highlands*						
Weatherless	28.00	5.25	15.00	53.50	1.25	23.80
Winston*						
Total Anacostia	--	--	--	35.7	--	--

WEST OF ROCK CREEK PARK

Eaton	10.00	2.85	1.00	10.00	1.40	14.00
Hearst	5.00	1.75	1.00	20.00	1.30	17.10
Janney	10.00	3.03	1.00	10.00	1.20	6.60
Lafayette	20.00	2.50	7.00	35.00	1.60	24.00
Murch	17.00	3.38	3.00	17.60	1.50	44.20
Oyster	8.00	2.73	4.00	50.00	1.16	42.40
Six Small Schools	5.00	1.29	3.00	60.00	1.20	15.50
Total WRCP	--	--	--	26.0	--	--

TOTAL FOR ALL ELEMENTARY SCHOOLS	2,702.00	634.00	908.00	33.6	29.1	45.8
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\*Data not available



**D. C. PUBLIC SCHOOLS - NUMBER AND PERCENTAGE OF ELEMENTARY  
TEACHERS WITH SIX YEARS OR LESS EXPERIENCE: 1976-1977**

ANACOSTIA

<u>School</u>	<u>Grade 1 - 6</u>	<u>Special Subject</u>	<u>Grade 1 - 6 Under 6</u>	<u>Percent Under 6</u>	<u>Special Subject Under 6</u>	<u>Percent Under 6</u>
Aiton	20.00	1.30	.00	.00	.00	.00
Beers	20.00	1.00	.00	.00	.00	.00
Benning	12.00	3.20	.00	.00	.00	.00
Birney	26.00	5.20	1.00	3.80	.80	15.30
Burrville	13.00	2.80	3.00	23.00	.00	.00
Carver	7.00	.50	.00	.00	.00	.00
Congress Heights	19.00	7.40	1.00	5.20	.40	5.40
Davis	19.00	4.20	1.00	5.20	1.00	23.80
Draper	19.00	4.90	1.00	5.20	1.00	20.40
Drew	29.00	2.20	4.00	13.70	.00	.00
Fletcher-Johnson	18.00	4.10	3.00	16.60	1.50	36.50
Friendship*						
Garfield	24.00	3.40	2.00	8.30	.00	.00
Green	29.00	5.00	2.00	6.80	.00	.00
Harris	23.00	3.70	3.00	13.00	.20	5.40
Hendley	27.00	3.80	2.00	7.40	1.00	26.30
Houston	17.00	3.00	.00	.00	.00	.00
Kenilworth	17.00	1.70	2.00	11.70	.40	23.50
Ketcham	28.00	4.20	1.00	3.50	.00	.00
Kimball	31.00	5.50	2.00	6.40	.00	.00
Leckie	19.00	7.60	2.00	10.50	3.00	39.40
Malcolm X	24.00	7.20	7.00	29.10	1.60	22.20
McGogney	24.00	5.00	2.00	8.30	1.00	20.00
Merritt	12.00	2.40	.00	.00	.00	.00
Moten	58.00	11.30	12.00	20.60	.00	.00
Nalle	18.00	3.20	.00	.00	.20	6.20
Nichols Avenue	9.00	1.20	.00	.00	.00	.00
Orr	20.00	3.20	5.00	25.00	.00	.00
Patterson	16.00	3.40	.00	.00	.00	.00
Plummer	22.00	3.50	.00	.00	.00	.00
Randle Heights	15.00	3.00	.00	.00	1.00	33.00
Richardson	18.00	1.40	2.00	11.10	.00	.00
River Terrace	11.00	1.40	.00	.00	.00	.00
Savoy	27.00	10.00	9.00	33.30	2.00	20.00
Shadd	27.00	4.00	3.00	11.10	.00	.00
Sixteenth & Butler*						
Simon	26.00	3.60	2.00	7.60	.00	.00
Smothers*						
Stanton*						
Terrell	21.00	3.00	5.00	23.80	1.00	33.30
Thomas	24.00	4.50	2.00	8.30	.00	.00
Turner	31.00	11.10	6.00	19.30	.00	.00
Washington Highlands	32.00	13.90	24.00	75.00	3.00	21.50
Weatherless	23.00	8.00	5.00	21.70	.00	.00
Winston	18.00	4.00	4.00	22.20	.00	.00
/-						
Total Anacostia	--	--	--	13.2	--	--

WEST OF ROCK CREEK PARK

<u>School</u>	<u>Grade 1 - 6</u>	<u>Special Subject</u>	<u>Grade 1 - 6 Under 6</u>	<u>Percent Under 6</u>	<u>Special Subject Under 6</u>	<u>Percent Under 6</u>
Eaton	11.00	1.60	4.00	36.30	1.00	62.50
Hearst	6.00	.90	1.00	16.60	.00	.00
Janney	7.00	1.60	3.00	42.80	.00	.00
Lafayette	23.00	4.60	4.00	17.30	.00	.00
Murch	14.00	3.60	2.00	14.20	1.00	27.70
Oyster	11.00	4.60	4.00	36.30	.00	.00
Six Small Schools	24.00	.00	4.00	16.60	.00	.00
Total WREP	--	--	--	22.0	--	--

TOTAL FOR ALL

ELEMENTARY SCHOOLS	2,221.00	454.00	294.00	13.2	58.5	12.8
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\*Data not available

ATTACHMENT "B"

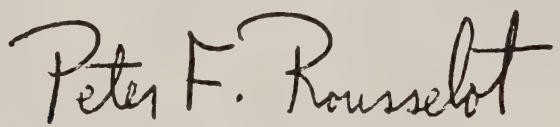


CERTIFICATE OF SERVICE

I hereby certify that I have this 12th day of September, 1977 served the foregoing "Memorandum Of Plaintiffs And Intervenors In Support Of A Modification Of This Court's Order Of May 25, 1971" on defendants by delivering a copy by hand to:

Robert L. Chernikoff, Esquire  
Assistant Corporation Counsel  
Government of the District of Columbia  
Room 312, District Building  
14th and E Streets, N. W.  
Washington, D. C. 20004

David A. Splitt, Esquire  
General Counsel  
D. C. Board of Education  
415 Twelfth Street, N. W.  
Washington, D. C. 20004

  
\_\_\_\_\_  
Peter F. Rousselot





UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

JULIUS W. HOBSON, individually and on  
behalf of JEAN MARIE HOBSON and JULIUS  
W. HOBSON, JR., et. al.,

Plaintiffs

v.

CARL F. HANSEN, Superintendent of Schools  
of the District of Columbia, THE BOARD OF  
EDUCATION OF THE DISTRICT OF COLUMBIA,  
et. al.,

Defendants

CIVIL ACTION No. 82-66

DEFENDANTS' RESPONSE TO PLAINTIFFS'  
MEMORANDUM OF POINTS AND AUTHORITIES  
IN OPPOSITION TO MOTION TO VACATE

On August 3, 1977, this Court, having received defendants' motion to vacate the Order issued in this case on May 25, 1971, and plaintiffs' opposition to that motion, issued an order requiring defendants to file a memorandum in response to plaintiffs' opposition. Defendants were also directed to provide information and data to plaintiffs' counsel explaining and illuminating the defendants' position on the issues, respond to any further requests by counsel for plaintiffs for additional material or information, and engage in discussion with counsel for plaintiffs on the information provided and the issues raised in the pleadings.

Defendants have responded to plaintiffs' comprehensive discovery request and have also developed and provided a substantial amount of additional material in response to further inquiries from plaintiffs' counsel. Counsel for both parties have met on several occasions during this period to discuss the information, data, and issues.

As a result of the interaction between the parties pursuant to the direction provided by this Court, the parties are now in agreement upon a proposed modified order which would supplant rather than vacate the 1971 Order. The parties have, therefore, jointly filed a request for modification of the Order of May 25, 1971.





The order issued August 3, 1977 specifically directed defendants to address two particular issues in their responsive memorandum. The first such issue, the problems encountered by the D. C. Public Schools in implementing the 1971 Order, is fully addressed by defendants in their submission to plaintiffs' counsel. Therefore, rather than duplicate this lengthy discussion within the body of this memorandum, defendants respectfully refer the Court to the document entitled "Nature and Scope of Problems Posed by Implementation of Equalization Order of May 25, 1971," including attachments I-VI thereto, a copy of which is attached hereto and incorporated herein as EXHIBIT A. It should be noted that the problems discussed in that document will be substantially eliminated by the modified order proposed jointly by the parties.

The second issue to which defendants are directed to respond by the August 3 order is possible variations in resource allocation under the definition of instructional staff in §701.7 of the proposed Board Rules (Chapter 7) and the provisions of §701.4 of the proposed Rules which would allow for subgroups of schools based on student population. In the information supplied to counsel for plaintiffs, as well as the discussions between the parties, this issue was thoroughly addressed. Defendants have agreed that a narrower definition of instructional staff could be accommodated in the Board's proposed Rules. In fact, the definition of pupil-teacher ratio set forth in the joint request for modification of the 1971 Order includes only classroom teachers. The broad definition of subgroups allowed to provide for diseconomies of scale (§701.4) has also been narrowed in the proposed modified order to establish a demarcation of the small school group as those schools with 250 or fewer students. Thus, the joint request for modification of the 1971 Order has resolved this issue by narrowing the applicable definitions while retaining a measure of flexibility.

Many of the additional factual matters addressed in the plaintiffs' memorandum of opposition have been answered directly by the data and information provided during the Court-directed discovery and discussion period. Rather than burden the pleadings with further discussion of this material, defendants respectfully refer the Court to the documents contained in the accompanying submission for the record entitled "Information and Data Supplied to Plaintiffs Pursuant to the Order Issued August 3, 1977." Inasmuch as the parties have



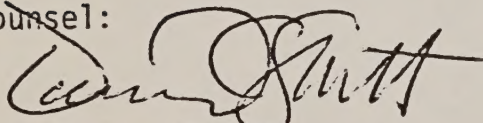


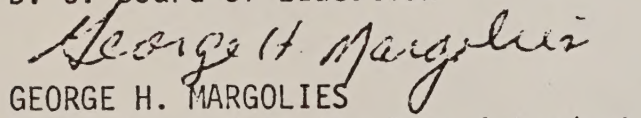
reached an accord with respect to the proposed modification of the 1971 Order, defendants will refrain from further discussion of the merits of the legal position taken in the memorandum in support of the motion to vacate. While defendants do not necessarily concur with plaintiffs' views on the law as presented in their memorandum, the proposed modification of the 1971 Order represents a joint effort to resolve the matters now before the Court irrespective of the divergent legal positions taken in the pleadings.

Therefore, defendants respectfully direct the Court's attention to the joint request for modification of the 1971 Order, the documents which were provided to plaintiffs' counsel during the discovery and discussion period, and the memorandum filed by plaintiffs in support of the joint request for modification. In light of these submissions, defendants urge the Court to accept and approve the proposed modification of the 1971 Order.

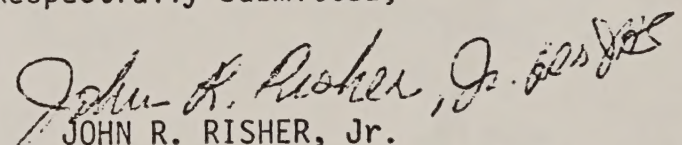
Respectfully submitted,

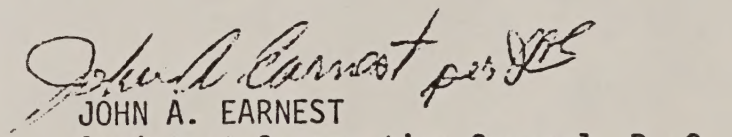
Of Counsel:

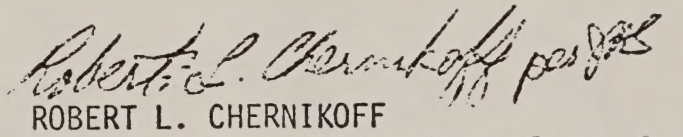
  
DAVID A. SPLITT  
General Counsel  
D. C. Board of Education

  
GEORGE H. MARGOLIES  
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D. C. Public Schools

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Corporation Counsel, D. C.

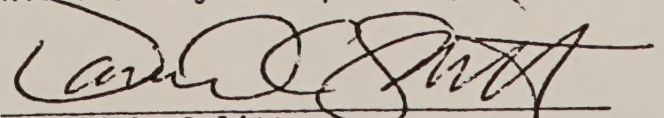
  
JOHN A. EARNEST  
Assistant Corporation Counsel, D. C.

  
ROBERT L. CHERNIKOFF  
Assistant Corporation Counsel, D. C.

Attorneys for Defendants  
District Building  
Washington, D. C.

#### CERTIFICATE OF SERVICE

I hereby certify that I have served a copy of the foregoing memorandum in response to plaintiffs' opposition to motion to vacate, along with copies of Information and Data Supplied to Plaintiffs Pursuant to the Order Issued August 3, 1977, and a copy of the appearance of Mr. George H. Margolies as of counsel for defendants by delivering a copy to Mr. Peter Rousselot and Mr. S. William Livingston, Jr., counsel for plaintiffs at their respective law offices in the District of Columbia on this 12th day of September, 1977.

  
David A. Splitt



